

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL STEVEN SOKOLOWSKI,

Plaintiff,

Case No. 21-cv-1245-pp

v.

DR. KUBER, *et al.*,

Defendants.

**ORDER EXTENDING TIME FOR PLAINTIFF TO PAY THE INITIAL PARTIAL
FILING FEE**

On October 27, 2021, the court ordered plaintiff Michael Steven Sokolowski to pay an initial partial filing fee of \$48.99 by November 17, 2021. Dkt. No. 5. The court advised the plaintiff “that if the court does not receive either the \$48.99 or a letter asking for more time to pay it by the end of the day on November 17, 2021, the court will dismiss the lawsuit without prejudice and the plaintiff will still owe the \$350 filing fee.” Id. (bolding omitted).

The November 17, 2021 deadline has passed, and the plaintiff has not paid the initial partial filing fee. However, on November 19, 2021, the court received a letter from the plaintiff responding to the previous order. Dkt. No. 7. The plaintiff states that he wrote down the court’s address from the envelope in which it sent the previous order and used that address to direct the \$48.99 payment. Id. at 1. He says he mailed out the payment on November 7, 2021, but the prison returned the disbursement request to him on November 15, 2021, and told him the request was missing an address. Id. He says that is incorrect because he listed the court’s address on the disbursement request. Id. The plaintiff says he “was just told about something called the mailbox rule”

and asks if he “[is] okay then.” Id. The plaintiff attached to his letter a copy of his disbursement request for the initial partial filing fee. Id. at 2. That document shows the plaintiff listed under “Reason for Request”:

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Id. But he left blank the boxes labeled “Pay to Name,” “Street Address,” “City,” “State” and “Zip.” Id. The envelope enclosing the plaintiff’s November 19, 2021 letter contains the correct address, city, state and zip code for correspondence to the court. Id. at 3.

The plaintiff did not complete the disbursement request for his payment of the initial partial filing fee. Although he listed the court as the *reason* for his disbursement request, he did not include the court’s address on the request. For that reason, the prison returned the disbursement request to him. The plaintiff is correct that, because he is a prisoner, he may take advantage of the “prison mailbox rule.” Under that rule, “a pro se prisoner’s legal documents are considered filed on the date that they’re tendered to prison staff in accordance with reasonable prison policies.” Taylor v. Brown, 787 F.3d 851, 859 (7th Cir. 2015). But that rule does not help the plaintiff here. Although the plaintiff’s disbursement request was mailed on time, the request form was incomplete. The mailbox rule does not excuse his failure to fully or properly complete the disbursement request form.

If the plaintiff wishes to proceed with this lawsuit, he must pay the \$48.99 initial partial filing fee or explain in writing why he is unable to. The court advises the plaintiff carefully to complete his disbursement request form to comply with the prison’s rules. His failure to complete the disbursement

request properly will not excuse him from paying the initial partial filing fee or allow him to proceed in this lawsuit.

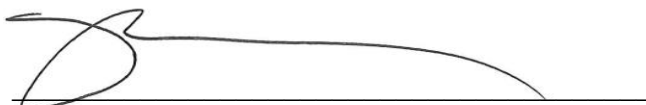
If the plaintiff fails to pay the initial partial filing fee by the deadline the court sets below, the court will dismiss this case without prejudice for the plaintiff's failure to prosecute. See Civil Local Rule 41(c) (E.D. Wis.) ("Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action . . . the Court may enter an order of dismissal with or without prejudice."). The court will not treat the dismissal as a "strike" under 28 U.S.C. §1915(g), but the plaintiff still will owe the \$350 filing fee.

The court will send a copy of this order to the Warden at Racine Correctional Institution, where the plaintiff is housed.

The court **ORDERS** that if the plaintiff wishes to proceed in this case, he must pay the \$48.99 initial partial filing fee **by the end of the day on December 15, 2021**. That means that the plaintiff must pay the fee (or explain in writing why he is unable to pay the fee) in time for the court to *receive* it by the end of the day on December 15, 2021. If the plaintiff fails to pay the fee by that deadline, the court will dismiss this case without prejudice for failure to prosecute.

Dated in Milwaukee, Wisconsin this 24th day of November, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge